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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,275	06/08/2005	Hisao Masai	082368-001100US	2728

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EXAMINER

SWOPE, SHERIDAN

ART UNIT	PAPER NUMBER
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1656

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/507,275

Applicant(s)

MASAI ET AL.

Examiner

Sheridan L. Swope

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claims 1-14 are pending.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, Claims 1-3 and 8, drawn to a kit comprising a Cdc7-ASK substrate and antibody and a method of using the kit to measure Cdc7-ASK activity.

Group II, Claims 4-6, drawn to a method of identifying modulators of Cdc7-ASK activity.

Group III, Claim 7, drawn to an inhibitor of cell growth.

Group IV, Claim 9, drawn to a kit comprising a Cdc7-ASK complex and a substrate.

Group V, Claim 10, drawn to a method for making a Cdc7-ASK complex.

Group VI, Claims 11 and 12, drawn to an antibody to a Cdc7-ASK complex.

Group VII, Claims 13 and 14, drawn to a polypeptide.

For Inventions VII above, restriction to one of the following is also required. Therefore, election is required of one of Inventions I- VII and, if Invention VII is elected, one of Inventions (A)-(B).

(A.) SEQ ID NO: 9

(B.) SEQ ID NO: 10

The inventions listed as Group I relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they comprise the same or corresponding special

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technical feature, a kit for to measuring Cdc7-ASK activity and a method of using said kit. The products of Groups III, IV, VI and VII are not so linked to Group I as to be encompassed by said single general inventive concept because said products do not share a common structure and function with the product of Group I. The methods of Groups II and V are not linked so linked to Group I as to be encompassed by said single general inventive concept because said methods do not share the same modes of operation, functions, or effects of the methods of Group I. In addition, the methods of Groups II and V do not comprise all of the methods for making or using the products of Groups III, IV, VI and VII.

A search for more than on of Inventions I-VII would be a burden on the Office for the following reasons.

Because the products of Inventions I, III, IV, VI and VII are structurally and/or functionally distinct entities, a search for one said invention would not encompass a search for any other invention and searching all of Inventions , III, IV, VI and VII, or a subset thereof would be a burden on the Office.

Because the methods of Inventions I, II and V comprise different steps, utilize different products, and/or produce different results, a search for one said invention would not encompass a search for any other invention and searching all of Inventions I, II and V, or a subset thereof would be a burden on the Office.

Except for the method and product of Invention I, a search for the products of Inventions I, III, IV, VI and VII would not encompass a search for the methods of Inventions I, II and V, or vice versa, because said methods are not the only methods of making and/or using said products.

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Thus, a search of any of Inventions I, III, IV, VI and VII with any of Inventions I, II and V would be a burden on the Office.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheridan L. Swope whose telephone number is 571-272-0943. The examiner can normally be reached on M-F; 9:30-7 EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published application may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sheridan Lee Swope, Ph.D.
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